

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THE UNITED STATES OF AMERICA,)
ex rel. JOSEPH M. THOMAS,)
bringing this Action on Behalf)
of the United States of America,)
Plaintiffs,)
v.)
DUKE UNIVERSITY, DUKE)
UNIVERSITY HEALTH SYSTEM, INC.,)
WILLIAM M. FOSTER, Ph.D.,)
and ERIN N. POTTS-KANT,)
Defendants.)

STIPULATION AND ORDER OF DISMISSAL

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the United States of America (United States), Relator Joseph M. Thomas (Relator), Duke University and Duke University Health System, Inc. (Duke), William M. Foster, Ph.D. (Foster), and Erin N. Potts-Kant (Potts-Kant), hereby stipulate that the claims of the Relator and the United States against Duke, Foster, and Potts-Kant are dismissed as follows:

1. With prejudice as to the Relator and as to the United States with respect to the “Covered Conduct” as defined in, pursuant to and consistent with the terms and conditions of the Settlement Agreement entered into by Relator, the United States, and Duke on March 22, 2019 (Settlement Agreement);

2. Without prejudice to the United States as to all other claims;
3. With prejudice as to the Relator and without prejudice as to the United States with respect to the 39 grants listed in Attachment B to the Settlement Agreement, for which Relator has no evidence of falsity submitted in claims related to those grants;
4. With prejudice as to the Relator as to all claims against Foster and Potts-Kant, and;
5. Without prejudice as to the United States as to all claims against Foster and Potts-Kant; and with prejudice as to the Relator as to all other claims, except for Relator's claim(s) for expenses, attorneys' fees, and costs under 31 U.S.C. § 3730(d)(2).

The Court shall retain jurisdiction in this case to resolve any dispute between Duke and the Relator as to the Relator's expenses, attorneys' fees, and costs. Should Duke and the Relator not resolve this issue, the Relator may, within 60 days of the date this Stipulation is filed, file a motion requesting an award of his expenses, attorney's fees, and costs pursuant to 31 U.S.C. § 3730(d)(2) and LR 54.2.

SO ORDERED:



Catherine C. Eagles
United States District Court Judge

STIPULATED TO BY:

MATTHEW G.T. MARTIN
United States Attorney

/s/ Cheryl T. Sloan
Cheryl T. Sloan
Assistant United States Attorney
NCSB #12557
101 S. Edgeworth St., 4th Floor Greensboro, NC 27401
336-333-5351
cheryl.sloan@usdoj.gov

BROOKS PIERCE

/s/ D. J. O'Brien, III
D. J. O'Brien, III
Attorney for Relator Joseph R. Thomas
NCSB #35481
2000 Renaissance Plaza
230 North Elm Street
Greensboro, NC 27401
336-271-3194
DOBRIEN@brookspierce.com

WOMBLE BOND DICKINSON

/s/ James P. Cooney, II
James P. Cooney
Attorney for Duke University and Duke University
Health System, Inc.
NCSB# 12140
One Wells Fargo Center Suite 3500
301 South College Street
Charlotte, NC 28202-6037
704-331-4980
Jim.Cooney@wbd-us.com

PARKER, POE, ADAMS & BERNSTEIN, LLP

/s/Richard S. Glaser, Jr.

Richard S. Glaser, Jr.
NCSB #13998
Attorney for Defendant William
M. Foster, Ph.D.
Three Wells Fargo Center, Suite 3000
401 South Tryon Street Charlotte, NC 28202
704-335-9531
rickglaser@parkerpoe.com

PARRY, TYNDALL & WHITE

/s/ Amos G. Tyndall

Amos G. Tyndall
NCSB #19309
Attorney for Defendant Erin Potts-Kant
100 Europa Center, Suite 401
Chapel Hill, NC 27517
919-246-4676
atyndall@ptwfir.com